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11 [Additional Counsel on Signature Page]

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

17)
18) JOY NWABUEZE, individually and on behalf) Case No. CV 09-01529 SI
18) of a class of similarly situated individuals,)
19) Plaintiff,) STIPULATION AND [Proposed] ORDER
19)) REGARDING MODIFICATION OF
20) vs.) SETTLEMENT NOTICE PLAN
21) PACIFIC BELL TELEPHONE COMPANY) Judge: Hon. Susan Illston
21) d/b/a AT&T CALIFORNIA, a California)
22) corporation; AT&T SERVICES, INC., a)
22) Delaware corporation; AT&T OPERATIONS,)
23) INC., a Delaware corporation; and DOES 1)
23) through 21,)
24))
25) Defendants.)
26)
27)
28)

1 WHEREAS, on January 16, 2013 the Court entered an Order Granting Preliminary
2 Approval of Class Action Settlement (Doc#159), filed on January 17, 2013 (“Preliminary
3 Approval Order”).

4 WHEREAS, the Notice Plan described in the Preliminary Approval Order and in the
5 underlying Settlement Stipulation and Agreement provided for mailed notice to current
6 customers during two consecutive months beginning no later than thirty (30) days after Notice
7 Commencement Date (April 1, 2013);

8 WHEREAS, the AT&T Defendants recently learned that approximately 550,000
9 current customer class members in Alabama, Mississippi and South Carolina (approximately
10 2.37% of the total class members) did not receive mailed notice due to a combination of
11 human and software error;

12 WHEREAS, the AT&T Defendants have determined that they have the ability to send
13 the same yellow bill insert (containing the Notice of Settlement, Billing Summary Request
14 Form, and Claim Form) received by other current customer class members in a separate direct
15 mailed notice to the missed class members in two consecutive mailings: the first no later than
16 July 26, 2013 and the second no later than August 2, 2013. Such notice would be sent more
17 than thirty (30) days prior to the September 2, 2013 deadline for submitting objections or
18 requests for exclusion;

19 WHEREAS, the parties met and conferred regarding the error and determined that the
20 provision of notice to the missed class members as described above would provide the best
21 notice practicable under the circumstances and constitutes valid, sufficient notice that
22 complies with due process. *See, e.g., Torrisi v. Tucson Elect. Power Co.*, 8 F.3d 1370, 1375
23 (9th Cir. 1993) (affirming grant of settlement approval where notice was mailed out to some
24 class members 31 days before the deadline for written objections and 45 days before the
25 hearing).

26 NOW THEREFORE, IT IS HEREBY STIPULATED AS FOLLOWS:

27 1. The AT&T Defendants shall send the bill insert (containing the Notice of
28 Settlement, Billing Summary Request Form, and Claim Form) via direct mail to

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17 Attorneys for Plaintiff
18 JOY NWABUEZE and the Putative Class

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20 **ATTESTATION OF SIGNATURE**

21 **(N.D. Cal. General Order 45)**

22 I, Roxane A. Polidora, hereby attest that concurrence in the filing of this document
23 entitled STIPULATION AND [Proposed] ORDER REGARDING MODIFICATION OF
24 SETTLEMENT NOTICE PLAN has been obtained from all of the signatories.

25 Dated: July 23, 2013

26 By /s/ Roxane A. Polidora
Roxane A. Polidora

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[PROPOSED] ORDER

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3 PURSUANT TO STIPULATION AND FOR GOOD CAUSE SHOWN, IT IS SO

4 ORDERED.

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6 Date: 7/24/13

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The Honorable Susan Illston
United States District Judge

CERTIFICATE OF SERVICE

I hereby certify that on July 23, 2013, a true and correct copy of **STIPULATION AND [Proposed] ORDER REGARDING MODIFICATION OF SETTLEMENT NOTICE PLAN** was electronically transmitted to the Clerk of the Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to all ECF registrants in this case.

Kathy Stout
Kathy Stout